

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT**

**Wednesday, July 11, 2018
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

SUP #08-18

Subject Property Information

Name of Applicant:	Gordon Lapke PO Box 111 Simms, MT 59477
Owner(s):	Lapke Construction LLC PO Box 111 Simms, MT 59477
Legal Description:	S13, T20N, R3W, Lot 9, Simms Original Townsite
Geo-Code(s):	02-3009-13-1-07-05-0000
Parcel Number(s):	0004518500
Existing Zoning:	Mixed Use (MU)
Requested Action:	Approval of a Special Use Permit to allow a Duplex, Second Dwelling
Surrounding Land Uses / Zoning:	North: Undeveloped / MU South: Simms Public School / MU East: Simms Public School / MU West: Residential / MU
Current Land Use:	Residential
Applicable Regulations:	Sections 7.8.10(26) & 10 Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from Gordon Lapke to allow a Duplex on his land on Lot 9,

Cascade County, MT. The applicant is requesting that a Special Use Permit be granted as required by Sections 7.8.10(26) of the Cascade County Zoning Regulations.

General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

Findings of Fact:

1. The property is in the Mixed Use (MU) Zoning District. The proposed duplex is allowed in the Mixed Use District pursuant to Sections 7.8.10(26) of the Cascade County Zoning Regulations. *"Mixed Use District...Uses Permitted Upon Issuance of a Special Use Permit...A second dwelling, including accessory dwelling units"*
2. The Lapke Construction LLC is the legal owner of the property.
3. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance, and county taxes are current.

4. Legal Notice of the application and the public hearing was published in the Great Falls Tribune on July 1, 2018 and July 8, 2018. As of writing this staff report, planning staff have received no phone calls or written comments/concerns.
5. A special use permit may be revoked by the Cascade County Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.
7. Access to the new dwelling unit will be from an existing approach.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb approaches:

Applicant: Traffic conditions in the vicinity should not be effected. Off street parking for the duplex residences are provided. Sight lines may in fact improve with removal of the vegetation that is on site that go directly to the street corner.

Staff: The impact to traffic conditions will be negligible and in line with existing development in the town of Simms. Staff agrees with the applicant's assessment that vegetation

removed on the corner of W Fox St and Walker St will improve sight lines and safety at the intersection.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: Services and utilities are currently on site and are capable of handling a new structure being tied into the systems. No new utilities will need to be installed to the site.

Staff: Staff does not anticipate any adverse impacts on the utilities provided to the site through the power grid or the town of Simms. The well on site should be capable of providing adequate water to the duplex, when the low water table of the area is taken into consideration.

- c. Soil erosion and sedimentation.

Applicant: The use of current vegetation on site and the remaining site area will be used for soil erosion stormwater run-off. A stormwater system is in place as well.

Staff: Staff agrees with the applicant's assessment that this project will not create an issue with stormwater discharge, given the relatively small scope of the project and the existing infrastructure in Simms.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: There is no anticipation to compromise the private water supply that exists on site. There is also no concern that it will effect the public water supply.

Staff: Staff does not anticipate any negative impacts to the existing sewage infrastructure or compromise to the groundwater of the area. There is no surface water in the immediate vicinity.

- 3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including

possible conflicts between them and how these conflicts will be resolved.

Applicant: There will be no conflicts between the proposed use and the surrounding area. It is in a mixed use zone in a residential area along with an education center (Simms High School).

Staff: The proposed development is in line with existing residential development in Simms, and will be a less intensive use than some other permitted principal uses in the Mixed Use district, such as General Repair or Sales, Restaurants, Small Contractor Yards, or Hotels and Motels.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: It is beneficial to the community and county as it creates quality, affordable housing in a rural area next to a school. It is anticipated that it could potentially benefit the value of adjoining property.

Staff: Staff agrees that new development dedicated to professional teaching staff will enhance the value of the surrounding property, as well as improve the capability of Sun River Valley Schools to properly perform their duties. Staff believes that this is an instance where the benefit to the community and county justifies approval regardless of its impact on the value of adjoining property.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: The proposed development will be residential and be utilized to provide quality, affordable housing for teachers and school staff members. It will be designed and built to fit the surrounding area as current residences are. It is anticipated that there will be no conflicts.

Staff: Staff does not anticipate any conflicts with the surrounding residential uses with the addition of new residential development, and active benefit to the adjacent school district.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*
- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*
- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*
- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*
- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.*
- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*
- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.*
- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's*

interdependence with other communities and to leverage available local resources.

- I. Encourage the growth of the agricultural economy.*
- J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: In regard to goal 1, the proposed zoning amendment to be in general compliance with the growth policy's goal to sustain and strengthen the economic well-being of Cascade County's citizens. Objectives A, B, C, F, G of this goal will be met as the additional proposed use allowed with a Special Use Permit in the Mixed-Use District deal with the economy and business in Cascade County. The economy would be strengthened by adding multi-family dwellings to the Special Use Permit list. It not only provides the opportunity for quality affordable housing to residents but promotes local business due to residents staying in Cascade County because of the affordable housing. This goal does not generally promote objective D, as this zoning amendment for allowed uses is not expected to promote the development of cultural resources and tourism to broaden the economic base.

Staff: While the proposed development will not have a direct impact on the business environment of the county, the addition of residential units provided for professional staff will enhance the county's tax base by attracting and retaining educated professionals who will become part of their community and improve economic prospects for area businesses.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*
- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*
- C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*
- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*
- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

Applicant: Goal 2 objectives A, B, C, D would apply to the proposed amendment. By the amendment of duplex being added to the Special Use Permit list under the Mixed-Use zoning, it would give Cascade County communities the opportunity to develop housing within the communities themselves. Specifically, regarding objective C, the Special Use Permit process gives jurisdiction to the zoning committee to discourage poor developments and subdivisions.

Staff: Staff does not anticipate that this proposal will have a direct impact on natural resource development. However, staff believes that the rural character of the County would be enhanced by providing an incentive for education professionals to move to Simms and become a part of the community in which they work.

GOAL 3: Maintain Agricultural economy

- A. *Protect the most productive soil types.*
- B. *Continue to protect soils against erosion.*
- C. *Protect the floodplain from non-agricultural development.*
- D. *Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*

Applicant: Goal 3 does not directly apply to the proposed amendment. The agricultural economy will be maintained as the development of duplex dwellings would not impede on any agricultural land but within the communities that are zoned as Mixed-Use.

Staff: Staff does not anticipate this proposal to have a direct impact on the county's agricultural economy. The project is outside of any mapped floodplain.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.*
- B. Promote the location of additional military missions in Cascade County.*
- C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.*
- D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.*

Applicant: The proposed amendment will not affect any of Goal 4 objectives.

Staff: Staff does not believe that this application will have any impact on the presence of the US Military in Cascade County.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

- A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.*
- B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.*
- C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.*
- D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.*

Applicant: Goal 5 objectives A, B, D apply to the proposed amendment. It would promote living in Cascade County because quality housing that is affordable would be available to the residents in Mixed- Use zones, like Simms, MT. Specifically to this project, this amendment would help the local school district retain teachers. The school has had trouble keeping staff due to the lack

of quality, affordable housing. They then choose to commute from out of the county. After so long they do not enjoy the commute and decide to leave the school district. This amendment would encourage the continued development of educational programs. Small communities that are zoned as Mixed-Use will be able to retain their teachers and staff to provide quality education to the local children.

Staff: The proposal meets all aspects of Goal 5, with particular emphasis on item D. By providing further incentives, such as affordable housing, Sun River Valley Schools will have greater ease hiring and retaining quality education professionals, which will allow them to adapt to a changing population and enhance the independence of the Simms area by providing stability and consistency in the education sector.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

***Applicant:** No negative impact but rather may reflect positively on such goal.*

Staff: The proposal will not have a negative impact on the municipal or joint land use plans, but is likely to have a positive effect on the character of the County and the Simms area.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the placement of a Duplex on Parcel 0004518500, Geocode 02-3009-13-1-07-05-0000 be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow the placement of a Duplex on Parcel 0004518500, Geocode 02-3009-13-1-07-05-0000 subject to the following conditions:

1. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. Applicant obtains addresses from Cascade County Public Works / GIS / Mapping Addressing for E911 purposes

Attachments:

- Special Use Permit Application, Plat Map

cc: Gordon Lapke
Sun River Valley Schools